AN ACT

TO

INCORPORATE

THE MINISTER AND TRUSTEES

OF

ST. ANDREW'S CHURCH,

MONTREAL.

(12th Victoriæ, Cap. 154.)

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An Act to incorporate THE MINISTER AND TRUSTEES OF ST. ANDREW'S CHURCH, MONTREAL.

[30*th May*, 1849.]

Preamble.

WHEREAS the ground in St. Peter Street, Montreal, upon which the Church for the Public Worship and exercise of the religion of the Church of Scotland, in the City of Montreal, commonly called St. Andrew's Church, is erected, was purchased by the late Alexander Rea and William Hunter, as Trustees for the Congregation worshipping in the said Church, under a Deed executed in their favour on the third day of May, one thousand eight hundred and five, before Guy and Barron, Notaries Public, and held by them (the said Alexander Rea and William Hunter,) according to their declaration of date fourteenth of July, one thousand eight hundred and six, made before the aforesaid Notaries, for the benefit and behoof of the said Church and the Congregation thereof, and for no other purpose whatsoever, and is particularly described in the aforesaid Deed of sale and declaration: And whereas the said Congregation of

A certain Deed of sale dated 3rd May, 1805, &c., cited.

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General meeting of 12th May, 1835, and election of Trustees.

the said Church, did, on the twelfth day of May, one thousand eight hundred and thirty-five, in a General Meeting of the Congregation duly summoned from the Pulpit for the purpose of electing Trustees for holding the said property along with the said William Hunter, the then surviving Trustee, did duly elect the Reverend Alexander Mathieson, Minister of the said Church, John Smith, William Ritchie, Donald Mackay, and James Fleming, and did declare that the aforesaid Reverend Alexander Mathieson, John Smith, William Ritchie, Donald Mackay and James Fleming, along with the aforesaid William Hunter, and their successors for ever, shall be constituted Trustees of the said Church, and shall have a perpetual succession: And whereas the said Congregation of the said Church did, according to the provisions of the Constitution of the said Church, on the fifteenth day of June, one thousand eight hundred and forty, elect William Stewart Hunter to be a Trustee of the said Church in the room and stead of William Hunter, deceased; And whereas the said William Stewart Hunter and the said Donald Mackay have, since their said appointment, departed this life, and the said William Ritchie having removed from the Province, and the said James Fleming having left the City of Montreal, John Boston, William Edmonstone, John Frothingham and James Gilmour were, according to the provisions of the Constitution of the said Church, duly appointed Trustees for the purposes aforesaid, in the room and stead of the said William Stewart Hunter, Donald Mackay, William Ritchie and James Fleming, and are now, together with the said Reverend Alexander Mathieson and John

Further election.

Smith, Trustees of the said Church; And whereas the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham and James Gilmour, as such Trustees as aforesaid, by Deed passed before J. J. Gibb and Colleague, Notaries Public, bearing date at Montreal aforesaid, the fourth day of December, one thousand eight hundred and forty-seven, acquired by purchase from M. Edwin Atwater, of the said City of Montreal, merchant, "Those "certain two Lots of Land, situate, lying and "being in the said City of Montreal, forming part of the 'Beaver Hall Property,' "known and distinguished on the plan of the "said Beaver Hall Property, as Lots numbers one and three, bounded in front by La"gauchetière Street, in rear by a new Street "marked 'A' on the said plan, on one side "by Beaver Hall Terrace, and on the other "side by property belonging to the heirs La"mothe; the boundary line on Beaver Hall "Terrace consists of a curved line whose "*radius* is about seventy-six feet four inches; "the range line of the Streets, Beaver Hall "Terrace and Lagauchetière, when carried out "to their points of intersection, give on Bea"ver Hall Terrace one hundred and sixty"three feet six inches, on Lagauchetière "Street one hundred and fifteen feet eight in"ches, on the line adjoining the property of "the heirs Lamothe one hundred and eighty"three feet three inches, and on the new "Street aforesaid one hundred and fifteen feet "four inches, the whole English measure, "without warranty of precise measurement, "together with a house thereon," as described in the said Deed, for the use and behoof of the

Deed of the 4th December, 1847.

Description of certain lots of land conveyed by the said Deed.

said Congregation of the said Church, and on which there is now being built a Church suitable for the increased numbers of the said Congregation: And whereas the said Trustees are not a body corporate, and have only a life estate in the said lots of ground and buildings thereon erected, holden by them as aforesaid, which is transmissable to their successors, to be elected according to the provisions of the Laws and Constitution of the said Church; And whereas the election of Successors to the said Trustees from time to time on their death, removal or necessary absence, is subject to many difficulties and delays, and is attended with much expense; And whereas the Reverend Alexander Mathieson, Doctor in Divinity, Minister of the said Church of St. Andrews in Montreal, John Smith, John Boston, William Edmonstone, John Frothingham and James Gilmour, Esquires, of the said City of Montreal, Trustees of the said Church, by their humble Petition have represented the inconveniences resulting from the want of a corporate capacity in them the said Trustees to enforce by legal process the payment of the rents payable by the holders of Pews in the said Church, and that it has now become necessary to sell the present Church in St. Peter Street aforesaid, and provide a larger building for the accommodation of the said Congregation: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled: *An*

Want of corporate powers, &c., recited.

Petition to the Legislature.

Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada, and it is hereby enacted by the authority of the same, That the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham and James Gilmour, and the successors for ever of the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham, and James Gilmour, to be elected in the manner hereinafter directed, shall be and they are hereby constituted and declared to be a body corporate and politic in name and in deed by the name and style of "*The Minister and Trustees of St. Andrew's Church, Montreal*," and shall be a perpetual Corporation, and shall have perpetual succession, and a Common Seal, with power to break, change and alter the same from time to time at pleasure, and shall be in law capable of suing and being sued, pleading or being impleaded, defending or being defended, answering or being answered unto, in all Courts of Judicature, in all manner of actions, suits, complaints, matters and causes whatsoever, and also of contracting and being contracted with, relative to the funds of the said Corporation, and the business and purposes for which it is hereby now constituted as hereinafter declared; and may make, establish and put in execution, alter or repeal such By-laws, Rules, Ordinances and Regulations, as shall not be contrary to the constitution and laws of this Province or to the provisions of this Act, or to the constitution of the Church of Scotland, as in that part of the United Kingdom of Great Britain and Ireland called Scotland now by law established, and as may

Trustees and their successors incorporated.

Corporate name and powers.

By-laws.

appear to the said Corporation necessary or expedient for the interests thereof; Provided always, that three of the members of the said Corporation shall form a *quorum* for all matters to be done and disposed of by the said Corporation.

Proviso: as to *Quorum*.

Lots of ground, &c., vested in Corporation.

II. And be it enacted, That the several lots of ground aforesaid, together with the buildings thereon erected, held by the Trustees aforesaid, shall be holden by the said Corporation to stand and be possessed thereof for ever to and for the several limitations, trusts, provisions and uses declared and expressed in respect of the same in and by the above referred to deeds of sale and declaration by the said Alexander Rea and William Hunter, as also by the terms under which the said Trustees are elected.

Corporation may accept and hold real estate to a certain amount: may sell certain land.

III. And be it enacted, That it shall and may be lawful for the said Corporation to accept any real estate which hereafter may be gratuitously given, granted or bequeathed, for the use of the said Church, as shall not, together with that already holden by the said Trustees as aforesaid, exceed in value, and yield at any time more than a clear net yearly income of five hundred pounds; and that the said Corporation be and are hereby authorized and empowered to sell the lot of land and buildings thereon, situated in St. Peter Street aforesaid, and the price or purchase money thereof to apply to the completion and paying for the lot of land and the Church now building as aforesaid on the said lot of land situated on Beaver Hall, and in the preamble hereof lastly above described; Provided, nevertheless, that

Proviso.

the purchaser shall not be liable for or bound to see to the application of the consideration money or any part thereof, and that the receipt for the same shall be a full discharge to him; and further that the said Corporation shall be empowered to sell or alienate the whole or any portion of the property held in trust by them, but they shall not be empowered to alienate or sell the property or any part thereof, except on a requisition signed by three fourths of the proprietors of pews in St. Andrew's Church aforesaid of at least one year's standing, not in arrear of rent, and at the time residing within the Parish of Montreal; and no sale or alienation shall be valid, unless sanctioned by three fourths of the proprietors, qualified as aforesaid; the proceeds of any sale or alienation, so made and sanctioned, shall be the property of the Church and Congregation, and solely applicable to the maintenance of the public worship of God according to the form of the Established Church of Scotland, or the erection and endowment of a school or schools in connection with the said Church; Provided always, that no portion of real estate belonging to the said Congregation, shall be disposed of for the purpose of secular education, until such time as the net annual income of the said Church shall amount to at least three hundred pounds, current money of this Province.

Other land may be alienated on certain conditions.

Proviso.

IV. And be it enacted, That it shall and may be lawful for the said Corporation, and they are hereby authorized and empowered to raise by way of mortgage on the said two lots of land or either of them, or any portion thereof known as part of the Beaver Hall Property, and hereinbefore described, or the

Corporation may raise money by mortgage, &c.

Church and Building thereon erected or hereafter to be erected and built thereon, such sum or sums of money as may be deemed necessary for the erection and completion of the said Church and its appurtenances, provided that the like consent shall be first had and obtained to mortgage for the purposes aforesaid as is hereinbefore in the next preceding clause provided for the sale of the trust property.

Provision with respect to the filling of certain vacancies in Corporation.

VI. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the Parish of Montreal, or otherwise, the said vacancies shall be supplied in the manner hereinafter mentioned, as follows, to wit: when a vacancy shall happen by the death, removal or change of residence, or otherwise, of the said Reverend Alexander Mathieson or his successor in the ministry of the said Church, from the said Parish, District or otherwise, the same shall be supplied by his successor, Minister of the said Church; and when a vacancy or vacancies shall happen by the death or removal, or change of residence of the said Reverend Alexander Mathieson, John Smith, John Boston, William Edmonstone, John Frothingham, and James Gilmour, or of their successors from the said Parish, or otherwise from time to time, the same shall be supplied by such person or persons as shall be elected to fill the same, by a majority of the votes of the proprietors of one year's standing, to wit, of pews in the said Church, not in arrear of pew rent, at a meeting to be convened as hereinafter mentioned.

VI. And be it enacted, That whenever a vacancy shall happen by the death, or removal, or change of residence of the Minister of the said Church, it shall be the duty of the Kirk Session, within eight days from the time of every such vacancy happening, to require by a notice or requisition to be published as the said Session shall determine, a meeting of the proprietors, pew holders, and members of the said Church, not in arrear of rent, to assemble in the said Church on a day not more than eight days after the day of such notification, at a convenient hour, for the purpose of taking the steps necessary for supplying such vacancy as aforesaid, by electing a Committee of nine, by a plurality of votes (seven to form a *quorum*), of whom six shall be proprietors of at least one year's standing, and in full communion with the said Church, and the remaining three may be pew holders who have paid rent for three years preceding their election, and are in full communion with the said Church, who shall have full power to take such steps as to them may seem best adapted for speedily obtaining a Minister to the said Church, a regularly ordained Minister or Licentiate of the Church of Scotland or of the Presbyterian Church of Canada in connection with the Church of Scotland; and at which meeting the senior member of the Session, if not prevented by illness or other cause, shall preside, or if so prevented, then the senior of the other members of the Session present shall preside thereat; and if at any such election there shall be an equality of votes, the Member of the Session so presiding shall have the casting vote.

Proceedings for filling a vacancy in the office of minister of the Church.

Proceedings for filling vacancies among other members.

VII. And be it enacted, That when any vacancy or vacancies shall happen in the said Corporation by death, or the removal or change of residence of any of the members thereof from the Parish of Montreal, or otherwise, other than in respect of the Minister of the said Church for the time being, it shall be the duty of the said Minister, within three calendar months from the time of every such vacancy happening, to require by a notice or requisition from the pulpit of the said Church, on two successive Sundays, to be published at such time in the forenoon service as he shall see fit, a meeting of the proprietors (not in arrear of rent) to assemble in the said Church at a convenient hour on a day not exceeding ten days after the day of such publication, for the purpose of supplying such vacancy or vacancies as aforesaid, by a person or persons who are proprietors in communion with the said Church, and who shall cease to be members of the said Corporation, if ever they cease to be members of the said Church by joining in communion with any other church or religious society; at which meeting the said Minister, if not prevented by illness or other cause, shall preside, or, if so prevented, then the senior of the other members of the said Corporation present, shall preside thereat, and if at any such election there shall be an equality of votes, the Minister or other member so presiding, shall have the casting vote.

Public Meeting of Pew-holders how to be called.

VIII. And be it enacted, That on a requisition signed by twenty proprietors or pew holders, specifying the object they have in view, it shall be the duty of the said Session to call

a Public Meeting of proprietors or pew holders, to be held in the Church, within ten days after the receipt of the said requisition.

A Register to be kept for recording proceedings, &c.

IX. And be it enacted, That there shall be opened and kept by the said Corporation a Register in which shall be entered and recorded, from time to time, the proceedings and transactions of the said Corporation, and which Register shall be open to the inspection of every proprietor or pew holder not in arrear of rent, at all seasonable times; and

Registration of certain Instruments.

that on every election to supply such vacancies as aforesaid, the same shall be declared by an instrument to be forthwith made and executed under the hands of the member presiding thereat, and three of the members of the said meeting, which said instrument declaratory of such election shall, at the diligence of the person elected at such meeting, be caused to be enregistered in the Office of the Prothonotary of the Court of Queen's Bench for the District of Montreal, within one calendar month from the day of such election, which enregistration the said Prothonotary is hereby required to make at the request of the bearer of the said instrument; and for which enregistration and the certificate thereof, the said Prothonotary shall be entitled to demand and receive the sum of two shillings and six pence, currency, and no more; And in default

Consequences of default to enregister.

of the enregistration of the said instrument within the time aforesaid, the said election shall be absolutely null and void, and the said Corporation shall proceed *de novo* to another election, and in the same manner as if no such election had taken place.

Deeds of gift, &c. to Corporation to be enregistered within 12 months after execution.

X. And be it enacted, That all deeds of gift and conveyance of real estate, which shall be made to the said Corporation, shall be enregistered within twelve calendar months after the execution thereof respectively, in the Office of the Prothonotary of the Court of Queen's Bench for the District, and also in the Registry Office of the District where such real estate shall be situate; which enregistration the said Prothonotary is hereby required to make at the request of the bearers of such deeds respectively, and for every such enregistration the said Prothonotary shall be entitled to demand and receive at and after the rate of six pence, currency, for every hundred words that the said deeds shall respectively contain, together with two shillings and six pence currency, for the certificate of such enregistration, and no more; and in default of such enregistration as aforesaid, of any such deed or deeds as aforesaid, within the time aforesaid, the same shall be absolutely null and void, and of no more force or effect than if the same had not been made or executed.

Her Majesty's Rights saved.

XI. And be it enacted, That nothing herein contained shall affect or be construed to affect in any manner or way the rights of Her Majesty, Her Heirs and Successors, or of any person or persons, or of any body politic or corporate, such only excepted as are herein mentioned.

Public Act.

XII. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such by all Judges, Justices of the Peace, and Ministers of Justice and other persons whomsoever, without being specially pleaded.

MONTREAL: Printed by STEWART DERBISHIRE and GEORGE DESBARATS, Printer to the Queen's Most Excellent Majesty.